

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
Case No. 5:23-mc-00016-BO**

FARHAD AZIMA,

Plaintiff/Applicant,

v.

NICHOLAS DEL ROSSO and VITAL
MANAGEMENT SERVICES, INC.,

Defendant to
underlying action.

Related to MDNC 1:20-CV-954

**MOTION TO INTERVENE AND TRANSFER UNDERLYING MOTION TO
COMPEL TO THE DISTRICT COURT FOR THE MIDDLE DISTRICT OF
NORTH CAROLINA**

NOW COMES Nicholas Del Rosso (“Del Rosso”) and Vital Management Services, Inc. (“VMS”) (collectively, “Applicants”), by and through undersigned counsel and pursuant to Rules 24(a)(2), 24(b)(1)(B) and 45(f) of the Federal Rules of Civil Procedure and moves this Court to permit Applicants to intervene as of right in order to protect and preserve their clear legal interest regarding Plaintiff Farhad Azima’s (“Azima”) application and motion to compel compliance with a subpoena *duces tecum* issued to American Express Company (“Amex”).

Applicants seek review of Azima’s issuance of a subpoena upon Amex out of a case currently pending in the Middle District of North Carolina.

Intervention under either Federal Rule 24(a)(2) or 24(b)(1)(B) is appropriate because Applicants have a clear and undeniable interest in: (1) preserving their rights in preventing disclosure of the information sought; (2) avoiding duplicative and

possibly conflicting court orders regarding the scope of discovery as between this Court and the court in the MDNC Case; and (3) Amex's inability to fully and adequately protect Applicant's rights and interests, especially considering the extraordinarily complex nature of the matter.

Applicants further seek transfer of this subpoena-related motion under Federal Rule 45(f) to the Middle District of North Carolina because there are pending rulings on these exact same issues in the MDNC Case.

WHEREFORE, as explained further in the supporting Memorandum of Law filed contemporaneously herewith and incorporated herein by reference, Applicants respectfully request that the Court:

1. Enter an Order granting this Motion for Applicants to intervene in Azima's motion as of right pursuant to Federal Rule 24(a)(2);
2. In the alternative, enter an Order granting this Motion for Applicants to permissively intervene in Azima's motion;
3. Enter an Order transferring Azima's motion to compel to the Middle District of North Carolina in accordance with Federal Rule 45(f); and
4. Grant any further relief this Court deems just and proper.

Respectfully submitted, this the 28th day of April, 2023.

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

By: /s/ Brandon S. Neuman

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*Counsel for Nicholas Del Rosso and Vital
Management Services, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this, the 28th day of April, 2023, I served true and correct copies of the foregoing via this Court's CM/ECF electronic filing system which will electronically notify the following parties and by First Class mail to the following:

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Raleigh, NC 27615

Third-Party American Express

This, the 28th day of April, 2023.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Brandon S. Neuman

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